

# Smoke-free Private Multi-Unit Housing

In September 2010, the U.S. Department of Housing and Urban Development's (HUD) Multi-Family Housing Section issued a notice titled [Optional Smoke-Free Housing Policy Implementation](#) to encourage owners and managers of HUD Multi-Family Housing rental assistance programs, such as Section 8, to adopt and implement smoke-free policies for some or all their properties. In June 2012, HUD issued two toolkits, one for tenants and one for landlords, owners, and public housing authorities, to assist with implementing smoke-free air policies: [Smoke-Free Housing Toolkit for Public Housing Authorities and Owners/Management Agents](#) and [Smoke-Free Housing Toolkit for Residents](#).

## Why a Smoke-free Air Policy for Multi-Unit Housing?

- By implementing a smoke-free air policy for multi-unit housing, landlords and owners will reduce wear and tear on their facilities, and will save money on cleaning and painting expenses. Multi-unit housing owners estimate that it costs anywhere from \$500-\$8,000 extra to restore a housing unit that had a smoker versus a nonsmoker.
- Adopting a smoke-free air policy can reduce the likelihood of fires in multi-unit housing. Cigarette smoking is reported as a leading cause of apartment fires and the number one cause of home fire deaths in the U.S. According to the U.S. Fire Administration, an estimated 7,600 smoking-related fires occur annually, resulting in \$326 million in property loss. Four hundred sixty-five lives were lost in multi-unit housing fires in 2009.
- Landlords and owners have the legal right to make their rental property smoke-free. There is no state or federal constitutional right to smoke. Smoke-free air policies are not discriminatory as they regulate behavior, not the person.<sup>1</sup>
- If a landlord or owner has a tenant that is sensitive to secondhand smoke or has breathing disorders, they are required under the American Disabilities Act and/or the Fair Housing Act to provide accommodations to protect the tenant from secondhand smoke in common areas as well as in their own units.
- As more landlords and owners become aware of the dangers of secondhand smoke and implement smoke-free air policies for their buildings, tenants are becoming increasingly aware of the dangers of living in a building without a smoke-free air policy. With the increase of smoke-free apartment buildings, public housing units, and other forms of multi-unit housing and homes, there is an increased interest and demand by tenants for smoke-free multi-unit housing.

Secondhand smoke is one of the leading causes of preventable death. It is a complex mixture of gases and particles that includes smoke from the burning cigarette, cigar, or pipe tip (side stream smoke) and exhaled mainstream smoke. Secondhand smoke cannot be contained. It seeps through light fixtures, doorways, and crawl spaces in buildings where there are smokers. It cannot be controlled by ventilation systems, or by separating smokers from nonsmokers. In fact, heating, ventilation, and air conditioning systems can distribute secondhand smoke throughout a building. The only solution to protect the health of all residents in a multi-unit housing facility is to adopt a smoke-free air policy.

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<sup>1</sup> Public Health Law & Policy Technical Assistance Legal Center. (2005). There is no constitutional right to smoke. Retrieved from [http://www.hcd.ca.gov/codes/rt/B\\_ThereIsNoConstitutionalRighttoSmoke\\_CA\\_4\\_05.pdf](http://www.hcd.ca.gov/codes/rt/B_ThereIsNoConstitutionalRighttoSmoke_CA_4_05.pdf)

### How Tenants Can Protect Themselves from Secondhand Smoke:

1. **Do Your Homework:** Look at your lease. It may not specifically address smoking, but there might be terms and conditions about noise or other types of behaviors that can impact residents' quality of life, which could be used to make a case that your neighbors should not be smoking in a way that jeopardizes your quality of life.
2. **Find Allies:** You may not be the only one affected by secondhand smoke in your apartment or condominium complex. Other tenants may be willing and interested in joining with you to find a solution. Find out if any tenants have health problems that make them particularly susceptible to the hazards of secondhand smoke. When discussing the problem of other residents smoking within multi-unit housing with the landlord, owner, or management association, you are likely to have greater success with many voices instead of one.
3. **Share Information:** Remind your landlord that it is legal to adopt a smoke free air policy. Many landlords are hesitant to adopt a smoke-free policy because they mistakenly think it is illegal or discriminatory to do so. Even with an existing lease, a no-smoking lease addendum can be added at any time. Place emphasis on landlords and owners having the legal right to institute a smoke-free air policy.

### How Landlords and Owners Can Implement a Smoke-free Air Policy:

1. **Make a Plan:** Will you adopt a smoke-free campus or will tenants be able to smoke outside? Start by designating all indoor areas as smoke-free, including individual units. Follow up by limiting smoking outdoors to designated areas.
2. **Hold a Meeting:** Gather with tenants to discuss the changes and inform them of the new policies regarding where smoking is prohibited and where the designated smoking areas are located. There may be resistance, but remember all existing tenants have rights under their leases, including nonsmokers.
3. **Amend New Leases or Add to House Rules:** Change the language of the lease to legally include your new smoke-free air policy. When new tenants sign a contract, the policy should be made clear.
4. **Promote Your Smoke-Free Policy:** Begin advertising your smoke-free status to gain new tenants who appreciate a clean and healthy smoke-free environment.
5. **Enforcing Your Policy:** This has been reported to be the easiest part of the process. In fact, enforcing a non-smoking policy takes less time than mediating disputes between smokers and nonsmokers when a policy is not in place.

### Helpful Resources on Smoke-free Multi-Unit Housing

**American Lung Association:** [www.lung.org](http://www.lung.org)

**Americans for Nonsmokers' Rights:** [www.no-smoke.org](http://www.no-smoke.org)

**Change Lab Solutions:** [www.changelabsolutions.org](http://www.changelabsolutions.org)

**Live Smoke-Free Minnesota:** [www.mnsmokefreehousing.org](http://www.mnsmokefreehousing.org)

**Michigan Smoke Free Apartments:** [www.mismokefreeapartment.org](http://www.mismokefreeapartment.org)

**Tobacco Control Legal Consortium:** [www.publichealthlawcenter.org/programs/tobacco-control-legal-consortium](http://www.publichealthlawcenter.org/programs/tobacco-control-legal-consortium)

**Tobacco Prevention and Cessation Commission~** [www.in.gov/isdh/tpc](http://www.in.gov/isdh/tpc) ~ 317.234.1787  
[www.QuitNowIndiana.com](http://www.QuitNowIndiana.com) ~ [www.indianaquitline.net](http://www.indianaquitline.net)



**1-800-QUIT NOW**  
Indiana's Tobacco Quitline